

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

**DARRELL ROYBAL and CHRISTINE ROYBAL,
as parents and next friends of L.R., a minor,**

**JOSE SERRANO, as parent and next friend of
D.S. and G.S., minors,**

**RICK HERRERA and CINDERELLA HERRERA,
as parents and next friends of L.H., a minor,**

Plaintiffs,

Cause No. _____

v.

**RICHARD R. MARTINEZ, in his individual capacity,
FREDRICK MARTINEZ, in his individual capacity,
ERIC V. MARTINEZ, Superintendent of Espanola
Public Schools, in his individual capacity, and
ESPAÑOLA PUBLIC SCHOOLS
BOARD OF EDUCATION,**

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1343, 1367, 1441 and 1446, Defendants Richard R. Martinez, Fredrick Martinez and Eric V. Martinez, all in their individual capacities, by and through their undersigned counsel, give Notice of Removal to this Court of the civil action filed in the First Judicial District Court for the State of New Mexico, County of Rio Arriba, *Darrell Roybal, et al. v. Richard R. Martinez, et al.*, Cause No. D-117-CV-2017-00013, and as grounds therefore state:

1. On January 12, 2017, Plaintiffs filed their “Complaint for First Amendment Retaliation, Battery, Punitive Damages, and Attorneys’ Fees and Costs” (hereinafter “Complaint”).
A copy of the Complaint is attached hereto as **Exhibit A**.
2. Defendants Richard R. Martinez, Fredrick Martinez, and Eric V. Martinez (hereinafter “Individual Defendants”) were served with the Complaint on January 19, 2017. See Exhibits B, C and D.
3. Defendant Espanola Public Schools Board of Education was served with the Complaint on January 19, 2017. See Exhibit E.
4. Individual Defendants exercise their right to remove this matter to this Court with the written consent of Defendant Espanola Public Schools Board of Education. Therefore, there is unanimity among all defendants consenting to this removal. See Exhibit F.
5. This Notice of Removal is filed within thirty (30) days of service of the Complaint. Therefore, this Notice of Removal is timely under 28 U.S.C. § 1446(b).
6. Pursuant to 28 U.S.C. § 1446(d), copies of the Notice of Removal will be given to all adverse parties and a copy of the Notice of Removal will be filed with the Clerk of the First Judicial District Court, County of Rio Arriba, State of New Mexico.
7. Plaintiffs allege a claim against Individual Defendants that is subject to the original jurisdiction of this Court, pursuant to 28 U.S.C. §§ 1331 and 1333(a)(3) and (4), and is demonstrated by the following portions of the Complaint:
 - a. Plaintiffs’ Count I alleges a violation of Plaintiffs’ rights under the First Amendment to the United States Constitution. **Exhibit A**, ¶¶ 34-40.
 - b. Plaintiffs allege Defendants’ actions were taken under color of state law and are in violation of 42 U.S.C. § 1983. **Exhibit A**, ¶ 38.

c. Plaintiffs pray the Court will grant them attorneys' fees and costs, pursuant to 42 U.S.C. § 1988. **Exhibit A**, ¶ 46.

8. This Court exercises supplemental jurisdiction over the remaining state law claims, pursuant to 28 U.S.C. § 1337, as they are alleged to arise from the same case or controversy.

9. Pursuant to D.N.M. LR-Civ. 81.1(a), Individual Defendants will file a certified copy of the State Court record and pleadings with this Court within twenty-eight (28) days after filing this Notice of Removal.

10. A Civil Cover Sheet is attached hereto as **Exhibit G**.

Respectfully Submitted,

NARVAEZ LAW FIRM, P.A.

/s/ Henry F. Narvaez
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Fredrick Martinez, and Eric V. Martinez*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of February, 2017, I filed the foregoing electronically through the Court's electronic filing system (CM/ECF), and submitted a courtesy copy via electronic mail, which caused the following parties or counsel to be served by electronic means:

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